

### **Remarks/Arguments**

Reconsideration of the above identified application is respectfully requested.

According to the foregoing amendment, the specification has been amended to correct an obvious error. Moreover, the claims have been amended in a manner that clearly distinguishes them from the cited references.

Specifically, the specification has been amended, as page 13, lines 18-25, to change “extrinsic” to “intrinsic”. From the specification it is clear that where the fiducial markings are introduced as an extrinsic component of a carpet, the detection device is configured to exclude fluorescence from intrinsic components of the carpet. Thus, this revision corrects an obvious error, and does not introduce any new matter.

Regarding the claims, original claims 1-4 are rejected as anticipated by Lerner, and claims 5-28 were rejected as obvious in view of Lerner. According to the foregoing amendment, claims 1-4, 6-21 have been amended, claims 29-33 have been added, and claims 22-28 have been canceled without prejudice to avoid any issues of the type discussed in Ex Parte Masham, which is cited in the Office Action.

Initially, regarding claims 22-28, these are the only apparatus claims originally filed. To avoid issues of the type discussed in Ex Parte Masham, claims 22-28 have been canceled without prejudice, subject to applicant’s right to seek apparatus claims in a continuation application. Thus, the only claims remaining are method claims 1-4, 6-21 and 29-33, and it is respectfully submitted that Ex Parte Masham is inapposite to those claims.

Moreover, it is respectfully submitted the claims 1-4, 6-21 and 29-33 are not anticipated by or obvious modifications of Lerner, alone or in combination. For example, claims 1-4, 6-12 have been amended, as appropriate, to recite a method that relates to detection of fiducial markings in tufted carpet, where the fiducial markings are designed to be related to the pattern of the **tufted** carpet. Lerner does not relate to **tufted** carpet, and does not have fiducial markings in configurations related to the pattern of the **tufted** carpet. In Lerner, control indicia are described as provided in a web such as used for chains of plastic bags and strips of envelopes in order to control repetitive work operations on the web. Importantly, Lerner specifically states that the markings can be

applied to any portion of the web “**without regard to the physical appearance of the design on the web**” (column 4, lines 21-25), and that the locations of the markings are “**selected without regard to what is printed on the web but rather with regard to proper location for controlled repeatability of work operations**”. (column 8, lines 11-14).

In the applicant’s method, a fiducial marking is **specifically configured to be related** to the pattern of a carpet, especially a tufted carpet, so that detection of the configuration of the fiducial marking enables the relative position of the pattern of the carpet to be based on detection of the configuration of the fiducial marking. Thus, detection of the fiducial marking provides a way of detecting conditions that affect the aesthetics of the carpet, preferably at a point at which there is an opportunity to correct those conditions. Applicant’s method may include a pic line in a configuration that is related to the pattern of the carpet, and detection of conditions such as bow or skew of that pic line that would signal a condition that affects the pattern of the carpet. As explained in the specification, the ability to detect such conditions in carpet is particularly important where such conditions are detected at a point at which there may be an opportunity to correct the condition. Such a concept is fundamentally different from Lerner’s method, and would not be an obvious modification of Lerner’s method. Moreover, incorporating such a concept into tufted carpet, in the manner described in the claims, further distinguishes applicant’s method from Lerner.

In addition, various features of the foregoing claims further distinguish applicant’s method from Lerner, and are not obvious modifications of Lerner. For example, certain claims, e.g. claims 6-8 and 12, bring out, *inter alia*, that applicant’s method preferably includes **tufted carpet** with **primary backing** and the fiducial marking is provided in the **primary backing**. Claims 9 and 12 bring out, *inter alia*, that applicant’s method preferably includes face fiber that provides the pattern of the tufted carpet, and the fiducial markings are provided in the face fiber. Claims 8 and 11 bring out, *inter alia*, that in applicant’s preferred method the face fiber is at least partially formed from an extruded polymeric fiber, and the fiducial marking is introduced into the polymeric material forming the polymeric fiber. Lerner has no disclosure or suggestion

of a method that is applicable to tufted carpet, and has no disclosure or suggestion of the foregoing features.

Moreover, in light of the fact that Lerner's objective is fundamentally different from applicant's (i.e. Lerner is concerned with controlled operations relating to a web, but specifically not with the location of his markings on the web, whereas applicant is specifically concerned with the configuration of fiducial markings to the pattern of a carpet, (particularly a moving carpet) there is simply no basis upon which one of ordinary skill would be motivated to use Lerner's disclosure to a tufted carpet, in the manner defined by the foregoing claims, without the benefit of applicant's disclosure.

Still further, certain of applicant's claims (e.g. claims 18, 20, 21) bring out, *inter alia*, that in applicant's method, the fiducial material is provided in the primary backing. Moreover, certain claims (i.e. claims 20, 21) recite, *inter alia*, that the carpet is moved over a roller and the examination of the carpet is performed as the carpet is moving over the roller. Lerner does **not** disclose or suggest such a method. In addition, certain other claims (e.g. claims 31-33) bring out, *inter alia*, that applicant's preferred method examines a pic line (that is configured to be related to the pattern of the carpet) to detect a **bow and/or skew** configuration in the pic line. Lerner has no disclosure or suggestion of a method with such features.

For the foregoing reasons, it is respectfully submitted that the claims remaining in this application are not anticipated by Lerner, and would not have been obvious from Lerner or any of the other cited references.

Application No. 10/007,456  
Amendment File Date:  
Reply to Office Action Dated:

Favorable action is respectfully requested.

In the event the examiner feels a further telephone discussion would be useful, she is respectfully requested to contact the undersigned at 520-747-0999.

Respectfully submitted,

A handwritten signature in black ink that reads "Lawrence R. Oremland". The signature is written in a cursive, flowing style.

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